



November 17, 1999

Mr. Brendan Hall
City Attorney
City of Harlingen
P.O. Box 2207
Harlingen, Texas 78551

OR99-3291

Dear Mr. Hall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129788.

The City of Harlingen received a request for a National Credit Union Administration Examination Report and any memoranda, correspondences or notes regarding the report. You claim that the requested report is excepted from disclosure under sections 552.102, 552.110, and 552.112 of the Government Code, as well as section 552.101 of the Government Code in conjunction with federal law.¹ You also claim that a memorandum responsive to the request is excepted under section 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.112(a) of the Government Code excepts from disclosure "information contained in or relating to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both." The National Credit Union Administration ("NCUA") is responsible for the regulation of the Harlingen Municipal Federal Credit Union, which is a "financial institution" for purposes of section 552.112(a). *See* Open Records Decision No. 158 at 5-6 (1977). The requested report is the NCUA's examination of the Harlingen Municipal Federal Credit Union. We conclude, therefore, that the requested report is excepted from disclosure pursuant to section 552.112(a). *See* Open Records Decision No. 392 (1983).²

Section 552.107(1) of the Government Code excepts from disclosure information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (/1990), this office concluded that section 552.107 excepts from public disclosure only

¹We note that you raise these exceptions concerning the report on behalf of the National Credit Union Administration.

²Because section 552.112 is dispositive in regard to the requested report, we do not address your other arguments for excepting the report from required public disclosure.

“privileged information,” that is, information that reflects either confidential communications from the client to the attorney or the attorney’s legal advice or opinions; it does not apply to all client information held by a governmental body’s attorney. Open Records Decision No. 574 at 5 (1990). When communications from attorney to client do not reveal the client’s communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney’s legal opinion or advice. ORD 574 at 3. In addition, basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.* We agree that the submitted memorandum is excepted from disclosure by section 552.107 as confidential client communications and an attorney’s legal advice. Accordingly, the memorandum may be withheld.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in cursive script that reads "E. Joanna Fitzgerald".

E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF/nc

Ref: ID# 129788

Encl. Submitted documents

cc: Mr. David Waltz
Reporter
Valley Morning Star
P.O. Box 511
Harlingen, Texas 78551
(w/o enclosures)